

DRAFT

WATER/ABJ/LTR:jlj

8/3/2000

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**WATER DIVISION
Advisory Branch**

**RESOLUTION No. W-4216
August 3, 2000**

RESOLUTION

**(RES. W-4216) DONNER LAKE WATER COMPANY (DLWC). ORDER
AUTHORIZING IMPLEMENTATION OF MANDATORY CONSERVATION
AND RATIONING, PLACING A SERVICE MORATORIUM ON NEW
CONNECTIONS, ORDERING THE FILING OF A SERVICE IMPROVEMENT
PLAN, AUDIT OF DLWC'S BOOKS AND BUSINESS PRACTICES, AND
IMMEDIATE CORRECTION OF DEFICIENT FACILITIES.**

SUMMARY

This Resolution recognizes that a water shortage emergency exists in DLWC's service area and grants DLWC authority to implement mandatory conservation and rationing in and effort to combat this emergency. In addition this Resolution places DLWC under a service connection moratorium, requires DLWC to submit a System Improvement Plan, orders a full audit of DLWC's books and business practices, and orders DLWC to immediately correct any facilities which might be contributing to the water shortage emergency.

BACKGROUND

DLWC is a subsidiary of the Del Oro Water Company (DOWC), a Class B water utility also regulated by the Commission. DOWC obtained ownership of DLWC in September 1993.

DLWC's current rates were established on June 3, 1999, pursuant to Resolution (Res.) W-4149, which authorized a general rate increase of \$62,039 or 17.27% in 1999. Res. W-4149 indicated that four customer protest letters were received and two people attended the public meeting held on November 8, 1998.

DLWC's prior rates were established on September 27, 1995, pursuant to Res. W-3942, which authorized a general rate increase of \$39,881, or 13.0%, in 1995 and an additional \$6,850, or 2%, in 1996. Res. W-3492 indicated that 14 customer protest letters were received, 17 customers attended the public meeting held on December 27, 1994, and 8

DRAFT

Resolution No. W-4216
DLWC/AL 59/ABJ/LTR:jlj

August 3, 2000

complaints had been filed with the Commission's Consumer Affairs Branch (CAB).

DLWC currently serves approximately 1,237 flat-rate customers and 42 metered rate customers along the southern and western development areas around Donner Lake, in Nevada and Placer Counties, just west of the town of Truckee. DLWC's customers are predominately residential customers and some business/industrial customers, with a population estimated at over 3,400 in year-long residents. Donner Lake is a mountainous resort area where fluctuations in population can be exponential on holidays and weekends, sometimes soaring to as high as 25,000 individuals at times. Service elevation ranges from 5,900 feet MSL to over 7,000 feet MSL.

DLWC's system is currently supplied by three low producing hard rock wells, one spring field under the influence of surface water, and one unfiltered lake water source. The spring field and lake water sources are chlorinated for disinfection. DLWC's distribution and storage systems are predominately 40 to 50 years old and consist mainly of welded steel pipe. This pipe has deteriorated excessively to where pipe repairs and leaks are numerous. Storage tanks have also deteriorated excessively, with water leakage being measured, at times, in excess of 20 gpm.

DLWC's spring and lake sources have not met the minimum safe drinking water standards since 1991. DLWC has been under order of the Department of Health Services (DHS), since August 13, 1993, to build a water treatment plant to comply with the standards. Due to ownership change and numerous design delays, DLWC has been unable to comply with the DHS order. DLWC's latest attempt to comply has resulted in DLWC filing Advice Letter No. 58, requesting authority to borrow funds under the Safe Drinking Water State Revolving Fund (SRF) and to add a surcharge to its water rates to repay the principal and interest of the loan. Unfortunately, DLWC has been unable to gain ingress and egress rights to a 30 foot section of dirt parking lot (owned by a neighboring property owner) so that construction of the treatment plant can commence. DLWC has filed for condemnation of the neighboring property for this use. However, due to possible litigation, even though the company has Planning Department approval, it appears that DLWC's proposed SRF funding could be delayed. DHS is committed to providing a "planning loan" to enable DLWC to find and replace the principal leaking pipes. There is no time estimate as to when the construction of the treatment plant can commence due to the pending litigation. DHS has indicated to the staff that it will work with DLWC and the CPUC to continue to provide funding for the filtration plant and the main replacement program.

DLWC has had a history of water outages over holiday weekends, most notably on the July 4th and Labor day weekends. Lately, since June, it appears that the outages are occurring more frequently and are not limited to weekend periods only. Customers in higher elevations have indicated that they are experiencing sporadic outages on almost a daily basis. Customers in lower elevations have indicated that they have experienced them on a less frequent basis. Because of these outages, and as a precautionary measure,

the DHS has placed DLWC on a boil water notice until system integrity can be maintained. DLWC notified its customers of the boil water notice on June 28 by door-to-door delivery, by publishing in a local newspaper on June 29, and then again by individual mailing on June 30.

In an effort to help combat the outages, and as strictly a band-aid type approach, DLWC desires to have Rule 14.1, Water Conservation and Rationing Plan, and Schedule 14.1, Mandatory Conservation and Rationing, to its tariffs. DLWC has utilized the Commission's standard Rule 14.1 and Schedule 14.1 as a basis for its proposed rule and schedule. Modifications have been made to the outside watering hourly restrictions and the penalty structure. Because DLWC is mainly a flat rate system, it does not currently have the ability to impose fines for measured overuse as the standard Schedule 14.1 allows. Instead, DLWC has chosen to impose a fee structure which is based upon visual triggers. Should a customer be seen violating any of the water use restrictions outlined in Rule 14.1, then the customer will be given a written warning indicating the violation. If the customer continues to repeatedly violate the same use restriction, then an increasing fine structure is imposed, with the second violation bringing a \$25 penalty, the third violation bringing a \$50 penalty, and each additional violation bringing an increasing \$25 penalty on top of the last one imposed. Violations of separate water use restrictions begin at the written warning phase and move to the penalty phase with each repeated violation of the same water use restriction.

NOTICE, PROTESTS, AND SYSTEM TOUR

DLWC notified its customers of the water emergency declaration, public meeting, and request to implement mandatory conservation and rationing on June 28 by door-to-door delivery, by publishing in a local newspaper on June 29, and then again by individual mailing on June 30.

The Branch received over 30 individual letters and one group letter of protest and complaint regarding the DLWC's related Advice Letter No. 58, request for SRF funding and surcharge. Four individual letters were received which dealt specifically with the water shortage emergency declaration issue. Almost all letters received echoed concerns over water quality and reliability issues.

The CAB received a total of two complaints against DLWC from June 1, 1999 to July 14, 2000 (one complaint against service and one against billing). Likewise, the CAB received a total of 11 complaints regarding DOWC during this same time period (5 complaints against service and 6 against billing). Complaints against both DLWC and DOWC are noted because DLWC customers may be misdirecting their complaints to DOWC.

DRAFT

Resolution No. W-4216
DLWC/AL 59/ABJ/LTR:jlj

August 3, 2000

On July 9 and July 10, a member of the Branch (Staff) toured and inspected visible portions of DLWC's system. Staff was able to inspect all sources of supply and 5 of the 7 storage facilities. Duly noted was the deteriorated condition of 3 of the 5 storage facilities. Two redwood tanks were examined and one was found to be leaking quite heavily at the base. One steel tank was examined and found to have numerous repaired holes, thus limiting the height of water able to be kept in the tank. Staff also examined piping which had been removed and replaced and found that the old piping also had numerous failures. Because of the condition of the DLWC's system, Staff could not determine whether the current water emergency was due solely to system failure, customer overuse, or a combination of both.

Staff has verified that DLWC has complied with, and is attempting to comply with, all outstanding DHS citations.

DISCUSSION

Rule 14.1, Water Conservation and Rationing Plan, allows the utility, at its own discretion, to implement voluntary conservation. The mechanism for implementing mandatory conservation rationing is schedule 14.1, Mandatory Conservation and Rationing. Schedule 14.1 sets forth mandatory water use restrictions, water use violation fines, charges for removal of flow restrictors, and the period during which mandatory conservation rationing measures will be in effect. It is only during the time that Schedule 14.1 is in effect that the utility may impose mandatory conservation and rationing. At all other times, the utility may only utilize voluntary measures.

Before Schedule 14.1 can be authorized by the Commission, the utility must hold public meetings and take other applicable steps required by Sections 358 through 358 of the California Water Code (Code). The Code provides that the governing board of any public water supplier may declare a water shortage emergency within its service area whenever it determines that the ordinary demands and requirements of its consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. Before making a declaration of water shortage emergency, the supplier must notify its customers and hold the public meeting to give customers the opportunity to protest such declaration or to make comments. After the supplier has declared a water shortage emergency, it must adopt such regulations and restrictions on water delivery and consumption as it finds will conserve its water supply for the greatest public benefit. Section 357 of the Code requires that suppliers that are subject to regulation by the Commission shall secure approval before making such restrictions and rationing effective.

On June 23, 2000, DLWC notified its customers that it was declaring a water emergency because its pumps, pipelines, and conduits could not meet customer demands and requirements. At the same time, the customers were noticed that DLWC was seeking

DRAFT

Resolution No. W-4216
DLWC/AL 59/ABJ/LTR:jlj

August 3, 2000

Commission approval for mandatory conservation and rationing.

DLWC held a public meeting on July 10, 2000 to discuss the water emergency and the proposed conservation and rationing. This meeting was attended by approximately 100 customers and 10 interested parties (non-customers). The meeting was emotionally charged, with attendees accusing DLWC, DHS, and the PUC of being negligent in their duties to insure customers are being provided safe and potable drinking water. Several examples were given stating that health problems were thought to have been caused by unsafe water, thus constituting a public health emergency. Others stated that there were no open lines of communication between DLWC, DHS, the PUC and the customers. Accusations abounded regarding unreturned phone calls and rude telephone conversations.

Those in attendance were very upset and were demanding that immediate action be taken to insure safe and reliable potable water. Suggestions that were given for immediate action included providing bottled water to each customer (at no additional cost to the customer), water be trucked in to the system, customers be provided with an on-site filtering unit to each home (again, at no cost to the customer), or that a payment moratorium be placed on DLWC by the customers to insure that DLWC does perform properly and swiftly.

Other customers demanded that an independent review of DLWC's finances be completed and that DLWC's books be opened for public inspection. Customers were blatantly accusing DLWC's owner of pocketing any profits, not upgrading DLWC's system, and lying to DLWC's customers.

Other topics which were voiced included the anticipated length for the boil water notice, alternatives to the litigated easement problem, lining of leaking redwood tanks, chlorinators, telemetry, and alarm autodialers.

Only a few individuals indicated that they were opposed to the proposed mandatory conservation and rationing plan. Those present were asked to show, by a simple show of hands, whether they favored a service connection moratorium or not. There did not appear to be a majority vote either for or against the moratorium.

Although the DLWC, DHS, and PUC representatives present at the meeting attempted to address each concern when it was presented, opposition to their responses increased with each attempt. It was apparent that those present did not want to hear explanations, or reasons, they wanted immediate action by all representatives present. It was also readily apparent that those in attendance had lost faith not only in DLWC, but also in all governmental agencies in charge of governing DLWC.

While the exact cause of the water outages cannot be readily identified, it is apparent that immediate action needs to be taken to minimize, or eliminate, any further outages. With

this in mind, it is obvious that DLWC should not wait for the outcome of any litigation that may occur before it proceeds to make much needed system improvements. Instead DLWC should begin to immediately correct any of its facilities which might be contributing to the water outages. DLWC should also be allowed to seek rate recovery of these expenses once the facilities have been placed in service and are used and useful.

DLWC does not currently have a Plant Improvement Plan on file with the Water Division. DLWC should be ordered to file a Plant Improvement Plan, including both short-term and long-term solutions with the Water Division within 30 days of the approval of this Resolution.

Under normal circumstances, if the growth potential of an area is minimal, the imposition of a moratorium on new service connections would be of small consequence in reducing the water supply shortage problems. However, faced with the fact that DLWC's system has excessively deteriorated and is no longer able to service the existing customers, and there is no immediate remedy in sight, it can only be concluded that a moratorium on new service connections is warranted at this time. At a minimum, the moratorium will eliminate any compounding effects that additional customers might have on an already stressed system. Should DLWC's situation warrant removal of the moratorium in the future, the removal should be triggered either by a motion by the DHS or by the Branch itself and only if careful examination of the situation warrants the removal.

In an effort to rebuild customer confidence, it is also recommended that a complete audit of DLWC's books and business practices be performed and the results of which should be made available for customer inspection.

FINDINGS AND CONCLUSIONS

1. DLWC's current system has deteriorated excessively and water outages have begun to increase.
2. DLWC has not met the minimum safe drinking water standards since 1991 and is currently under order by the DHS to build a treatment plant to bring DLWC under compliance.
3. DLWC is currently requesting Commission approval for borrowing SRF funding for the treatment plant, but is in jeopardy of losing the funding or having it delayed due to pending litigation.
4. DLWC's higher elevation customers are currently experiencing sporadic water outages almost on a daily basis.
5. DLWC's customers have been on a boil water notice since June 28, 2000.
6. DLWC will utilize Rule 14.1 and Schedule 14.1 as a band-aid type approach to combat the water outages.
7. It cannot be determined if the current water outages are due to DLWC's system failure, customer overuse, or a combination of both.
8. DLWC has complied with, or is attempting to comply with, all outstanding DHS

citations.

9. Rule 14.1, Water Conservation and Rationing Plan, allows a water utility, at its discretion, to implement voluntary conservation measures. It requires the utility to obtain Commission approval for mandatory conservation and rationing.
10. Schedule 14.1, Mandatory Water Conservation and Rationing, allows a water utility to implement mandatory conservation and rationing.
11. Before Schedule 14.1 can be authorized by the Commission, the water utility must hold a public meeting and take other applicable steps required by Sections 350 through 358 of the California Water Code.
12. DLWC held the public meeting, in accordance with the Water Code, on July 10, 2000. It was attended by approximately 100 customers and 10 non-customers.
13. Attendees to the July 10 meeting demanded immediate action be taken to insure safe and reliable potable water.
14. A moratorium on new service connections is warranted at this time.
15. DLWC should be allowed to seek rate recovery for expenses associated with correcting any of its facilities which might be contributing to the water outages, once the facilities have been placed in service and are used and useful.
16. DLWC does not currently have a Plant Improvement Plan on file with the Water Division and should be ordered to file one within 30 days of the approval of this Resolution.
17. It is reasonable of this time to allow DLWC to add tariff Rule 14.1 and Schedule 14.1 to its authorized tariffs.
18. A complete audit of DLWC's books and business practices should be performed in an effort to reestablish customer faith in the Commission's regulatory authority.

IT IS ORDERED THAT:

1. Donner Lake Water Company is authorized to add Rule 14.1, Water Conservation and Rationing Plan, and Schedule 14.1, Mandatory Water Conservation and Rationing, to its tariffs as proposed by Advice Letter No. 59. The effective dates of Rule 14.1 and Schedule 14.1 shall be the effective date of this resolution.
2. Rule 14.1 shall continue in force until such time as Donner Lake Water Company chooses to remove it from its authorized tariffs, or until such time as the Commission directs its modification or repeal.
3. Donner Lake Water Company is hereby placed under a moratorium on new service connections effective immediately. Until directed by the Commission, Donner Lake Water Company shall remain under the moratorium.
4. Donner Lake Water Company shall correct any of its facilities which might be contributing to the water outages and shall be allowed to seek rate recovery for expenses once the facilities have been placed in service and are used and useful.
5. Donner Lake Water Company shall file a Plant Improvement Plan with the Water Division, within 30 days of the approval of this Resolution.
6. The Water Division shall perform a complete audit of DLWC's books and business practices.

DRAFT

Resolution No. W-4216
DLWC/AL 59/ABJ/LTR:jlj

August 3, 2000

7. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on August 3, 2000. The following Commissioners approved it:

WESLEY M. FRANKLIN
Executive Director